**HIGH COURT OF UTTARANCHAL AT NAINITAL**

Writ Petition No. 647 of 2005 (SS)

Sri M.C. Sati ..... Petitioner

Versus

1. Director General Medical Health & Family Welfare, Uttaranchal
2. Chief Medical Officer, Almora
3. Medical Officer, Community Health Centre, Bhikiasen, Almora ..... Respondents

Sri Amish Tiwari, Advocate for the petitioner
Standing Counsel for the respondents.

**Hon'ble Rajesh Tandon J.**

Heard the learned counsel for the parties.

By the present writ petition the petitioner has prayed for the issue of a writ order of direction in the nature of certiorari quashing the orders dated 27.4.2005 and 10.5.2005 passed by the respondents.

Briefly stated the petitioner is permanently posted as Senior Clerk at Community Health Centre, Bhikiasen, District Almora. He has been transferred to Bhageshwar vide order dated 27.4.2005 passed by the respondent no. 1. In pursuance of that order respondent no. 3 directed the petitioner vide order

dated 10.5.2006 to be relieved from Community Health Centre Bhikiasen and to join his place of transfer. The petitioner has submitted that the marriage of his daughter has been settled and in case of his transfer he would suffer great inconvenience.

So far as the transfer order is concerned no interference can be made under Article 226 of the Constitution of India.

It has been held by the Apex Court in the case *Shilpi Bose and others vs. State of Bihar and others AIR 1991 SC 532 as under:*

*"In our opinion, the courts should not interfere with a transfer order which are made in public interest and for administrative reasons unless the transfer orders are made in violation of any mandatory statutory rule or on the ground of mala fide. A Government servant holding a transferable post has no vested right to remain posted at one place or the other, he is liable to be transferred from the one place to the other. Transfer orders issued by the competent authority do not violate any of his legal rights. Even if a transfer order is passed in violation of executive instructions or orders, the Courts ordinarily should not interfere with the order instead affected party should approach the higher authorities in the Department. If the courts continue to interfere with day to day transfer orders issued by the Government and its subordinate*

*authorities, there will be complete chaos in the Administration, which would not be conducive to public interest. The High Court over looked these aspects in interfering with the transfer orders."*

It is well settled that the transfer is an exigency of service. However option for the petitioners to approach the higher authorities is available and the petitioners are at liberty to approach the higher authority.

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Liberty is, therefore, given to the petitioners to make representation to the appropriate higher authority within 15 days after receipt of the certified copy of this order, who shall decide the same within a month thereafter. The order of transfer shall remain in abeyance for a period of one and a half month only.

With the observations, made above the writ petition is disposed of. No order as to costs.

**Rajesh Tandon J.**

21.5.2005
Dhyani